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FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY



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July 19, 1993

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Leslie Taylor
Associates

Re: ET Docket No. 93-198, Preparation for International Telecommunication Union World Radiocommunication Conferences

Dear Mr. Caton:

Enclosed are the original and required copies of the comments of Primosphere Limited Partnership in the above-referenced proceeding.

If you have any questions concerning this matter, please contact the undersigned.

Sincerely yours,

Leslie A. Taylor

**Enclosures** 

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relating to international allocations and regulations governing Broadcasting Satellite Service (Sound).<sup>4</sup>

In particular, the Commission seeks comment on Resolution No. 528 (RES528), adopted at the 1992 World Administrative Radio Conference<sup>5</sup>, which calls for a conference before 1998 to address the planning of BSS (Sound), to develop procedures for coordination of complementary terrestrial broadcasting, and to review necessary criteria for sharing with other services.<sup>6</sup>

The Commission states the preliminary view that international planning for BSS (Sound) in the 2310-2360 MHz "does not appear to be necessary, since the U.S. allocation is common only to the United States and India." The Commission requests comments on any issues that should be addressed at future international conferences, such as whether Resolution No. 528 restricts BSS (Sound) systems in the 2310-2360 MHz band to the upper 25 MHz of the bands until a planning conference is completed. The Commission also asks parties to address the issue of coordination of BSS (Sound) systems with existing terrestrial operations.

II. The United States Should Oppose the Reopening of the Spectrum Allocation for BSS(Sound) and Complementary Terrestrial Broadcasting at Future International Radiocommunication Conferences

Primosphere LP urges the Commission to recommend as a United States position that the matter of international spectrum allocations for BSS(Sound) not be reopened.

The United States' position at WARC-92 on BSS (Sound) was undertaken after extensive

<sup>&</sup>lt;sup>4</sup> Notice, at paras. 9 and 10.

<sup>&</sup>lt;sup>5</sup> <u>See</u> Final Acts of the 1992 World Administrative Radio Conference and Addendum & Corrigendum, Malaga-Torremolinos, 1992 ("Final Acts").

<sup>&</sup>lt;sup>6</sup> Notice, at para. 9.

<sup>&</sup>lt;sup>7</sup> Notice, at para. 10.

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international conferences, would not be in the interests of the applicants, prospective users or United States industrial interests which will benefit from the implementation of this important service. Primosphere, in its comments on the Commission's proceeding to adopt, into the U.S. Table of Allocations, the allocation of 2310-2360 MHz for satellite digital audio radio service, strongly supported the adoption of the allocation.<sup>12</sup>

As Primosphere stated, "the Commission should proceed expeditiously to allocate the 2310-2360 MHz band for satellite DARS and complementary terrestrial service in the United States." Consequently, Primosphere, along with all the other applicants for satellite DARS, support the prompt adoption of this allocation in the United States. In order to ensure that the service in the U.S. is not delayed, no change should be made in the international allocation.

The United States must take every action necessary to ensure that the spectrum allocation for BSS (Sound), or at a minimum, the allocation of 2310-2360 MHz for the United States and Canada, is not placed on the agenda of WRC-95 or WRC-97. However, if the subject of BSS(Sound) allocations is placed in the agenda for future international radiocommunication conferences, the United States should seek to restrict the agenda item to the consideration of revising the allocations for other administrations. For example, some other administrations may wish to change the allocation applicable to their country, or to add the 2310-2360 MHz as an alternate band to give themselves additional flexibility and options for the implementation of BSS(Sound). Only a carefully crafted, restricted agenda item should be acceptable to the United States.

<sup>&</sup>lt;sup>12</sup> <u>See</u> Comments of Primosphere LP ("Primosphere Comments") filed December 29, 1992 in GEN Docket No. 90-357, 7 FCC Rcd 7776 (1992), on spectrum allocations for and the implementation of a satellite digital audio radio service in the United States.

<sup>&</sup>lt;sup>13</sup> Primosphere Comments, p. 4.

## III. The United States Should Take the Position that a Planning Conference for the 2310-2360 MHz Band is Not Required

Because virtually all administrations at WARC-92 were keenly interested in the BSS (Sound) allocation, Resolution 528 was adopted regarding use of the allocated spectrum. Resolution 528 calls for a conference to plan the use of the BSS(Sound) service. The Resolution also suggests that administrations implement only the upper 25 MHz of their allocations prior to a planning conference.

Primosphere has already stated its view that a planning conference is not necessary for BSS(Sound) in the 2310-2360 MHz band.<sup>14</sup> Such a planning conference is directed at insuring that all administrations which may want to deploy satellite sound broadcasting systems operating in the 1.5 GHz band will be assured of orbital locations in the geostationary-satellite arc from which to provide such service. This factor is inapplicable to the 2310-2360 MHz allocation.

As a policy matter, the United States consistently has taken the view that conferences which plan the use of the geostationary satellite orbit are not likely to result in the optimum use of the spectrum/orbit resource or promote the rapid introduction of systems. In discussing the United States perspective on the development of <u>a priori</u> plans in the 6/4 GHz and 13/11 GHz bands for use by the fixed-satellite service, it is noted that "planning, if not carefully limited, could inhibit technological progress by forcing technology to meet artificial and unnecessary constraints...." <sup>15</sup> The United States, in preparing for conferences for the planning of space services, has taken a similar view.<sup>16</sup>

<sup>&</sup>lt;sup>14</sup> Primosphere Comments, p. 5.

<sup>&</sup>lt;sup>15</sup> White and White, <u>The Law and Regulation of International Space Communication</u>, Artech House, 1998, at p. 203.

<sup>16</sup> See United States of America Proposals to the World Administrative Radio Conference on the Use of the Geostationary-Satellite Orbit and the Planning of the Space Services Utilizing It, Geneva, 1988, as contained in Second Report and Order, FCC 88-124, March 30, 1988, at p. 2 of Proposals, which states: "Our experience in the development and implementation of satellite (continued...)

In addition, Primosphere believes that the United States should decide, as a domestic matter, to make available the full band for the first generation BSS(Sound) systems.<sup>17</sup> There is no valid rationale for deferring the use of a portion of the allocation until after a planning conference. The full band is needed to provide a service which has the audio quality and quantity of channels required in the public interest and to support multiple entry.

If, however, other administrations insist on the inclusion of the 2310-2360 MHz band on the agenda of a planning conference, the United States should seek to schedule such a conference as soon as possible. In this case, the United States also should consider proposing a separate conference for planning BSS(Sound) systems in the 2310-2360 MHz band rather than inclusion in a worldwide conference.

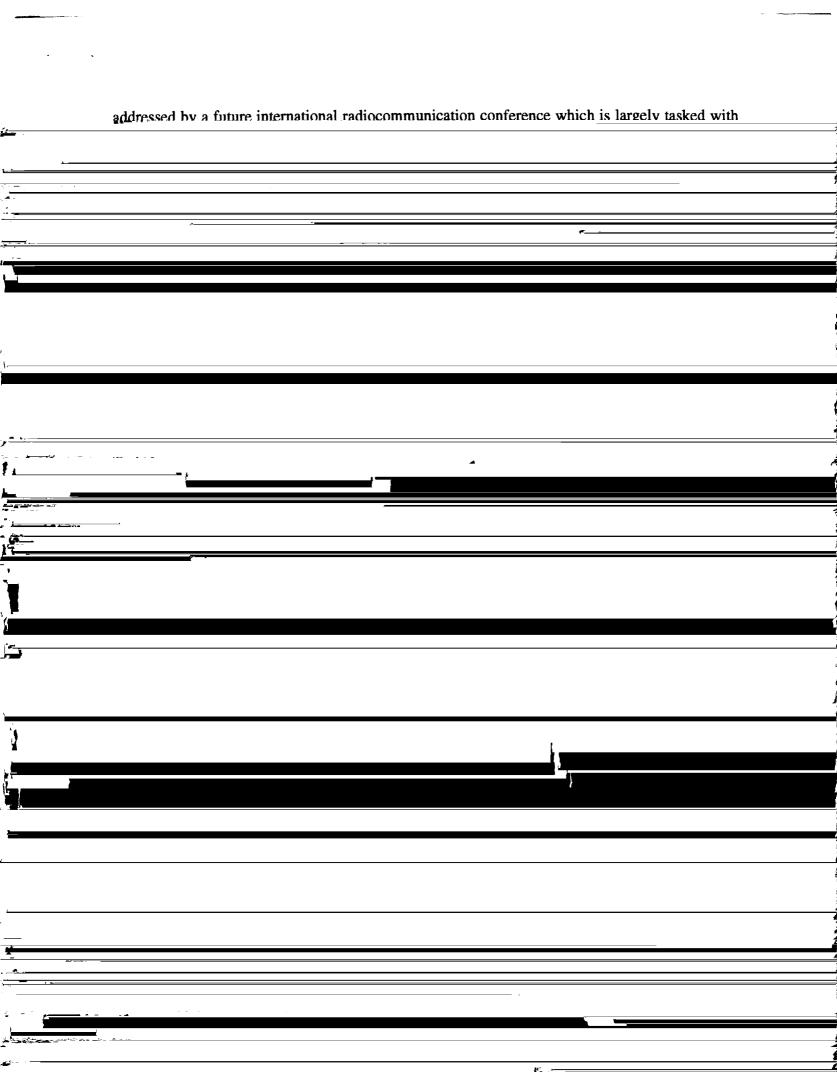
If the matter of Resolution 528 is placed on the agenda for a future international radiocommunication conference, the Commission should seek a revision of Resolution 528 to clarify that neither a planning conference nor the restriction of systems to the upper 25 MHz of the spectrum allocated, is applicable to the 2310-2360 MHz allocation.

## IV. Coordination Issues Should be Addressed in Radiocommunication Study Groups and Bilaterally

The Commission seeks comment on coordination issues relating to BSS(Sound) systems. The Radiocommunication Study Groups of the ITU are the appropriate fora for addressing issues relating to the development of technical criteria to be used in coordination of satellite DARS systems with other satellite systems and with terrestrial users of the frequency bands. Work on this matter currently is underway in the appropriate study groups. Such matters should not be

<sup>&</sup>lt;sup>16</sup>(...continued) systems has demonstrated that flexibility is needed both to encourage technical advancements in satellite systems and to ensure efficient use of a limited resource."

<sup>&</sup>lt;sup>17</sup> <u>Id</u>.



### Respectfully submitted,

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July 19, 1993

#### **CERTIFICATE OF SERVICE**

I, Andrew Taylor, hereby certify that a true copy of the foregoing "Comments of Primosphere LP" was mailed, postage prepaid this 19th day of July, 1993 to:

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